

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS

GALVESTON DIVISION

UNITED STATES OF AMERICA	§	
	§	
VS.	§	CRIMINAL NO. G-01-22-SS (02)
	§	CIVIL ACTION NO. G-05-204
THOMAS McBARRON	§	

**OPINION AND ORDER**

The Court, having considered several motions filed by movant, Thomas McBarron now issues the following Orders.

It is **ORDERED** that McBarron's "Motion to Supplement" his § 2255 Motion (Instrument no. 351) is **GRANTED**. Arguably, the new Brady claim asserted by McBarron is time-barred, Mayle v. Felix, 545 U.S. \_\_\_\_, \_\_\_\_, 162 L.Ed. 2d 582, 590 (2005); however, since at least February 28, 2005, McBarron has been claiming that exculpatory evidence would be found on the computer files to be produced in Civil Action No. G-04-cv-498, his Motion for the Return of his property. Since McBarron has only recently received those files, the Court will permit him to now raise this claim based upon this "newly discovered" evidence.

It is further **ORDERED** that McBarron's "Motion to Amend" his § 2255 motion (Instrument no. 352) is **GRANTED**; McBarron's proposed "Amendment" clearly addresses the common core of operative facts asserted in support of Grounds 2 and 20 of his Original Motion.

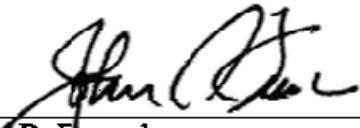
It is further **ORDERED** that McBarron's "Motion to Seal Petitioner's Exhibit 90" (Instrument no. 353) is **GRANTED**.

It is further **ORDERED** that McBarron's "Motion for Reconsideration to Appoint Counsel and Invoke Discovery" (Instrument no. 348) is **DENIED**.

It is further **ORDERED** that the Government **SHALL** have until **December 9, 2005**, to file its response to McBarron's Supplemental and Amended claims.

It is further **ORDERED** that McBarron **SHALL** have until **December 30, 2005**, to file his traverse.

**DONE** at Galveston, Texas, this \_\_\_\_\_ 9th \_\_\_\_\_ day of November, 2005.

  
\_\_\_\_\_  
John R. Froeschner  
United States Magistrate Judge